



Tennessee Defense Lawyers Association

NEWSLETTER



Dedmon v. Steelman

TENNESSEE SUPREME COURT CLARIFIES LAW ON PROOF OF MEDICAL EXPENSES IN PERSONAL INJURY CASES

In a case closely watched by Tennessee lawyers, the Tennessee Supreme Court has declined to change the law on what evidence can be used to prove medical expenses in cases involving personal injury. The Court held that Tennessee law continues to allow plaintiffs to use full, undiscounted medical bills to prove their medical expenses instead of the discounted amounts paid by insurance companies.

In a case filed in Crockett County, Jean Dedmon sued for injuries she sustained in a car accident. Mrs. Dedmon attached the bills from her hospital and her doctors to her legal complaint.

While Mrs. Dedmon's case was pending, the Tennessee Supreme Court issued its opinion in another case, *West v. Shelby County Healthcare Corporation*. *West* involved a hospital's legal claim, called a lien, for the full amount of patients' unpaid medical expenses. The Court in *West* observed that most hospitals routinely send bills to all patients, regardless of whether the patients have insurance. These bills are far larger than the discounted payments the hospitals have contractually agreed to accept from insurance companies for those patients that do have insurance. Based upon the specific provisions of the lien statute, the *West* Court held that the hospital's lien was limited to the discounted amounts paid by the patients' insurance companies.

After the Supreme Court's decision in *West* was announced, the defendants in *Dedmon* argued to the trial court that *West* had also changed the law in Tennessee for all cases involving personal injuries. After *West*, they said, personal injury plaintiffs who have insurance can no longer use the full medical bills to prove their medical expenses. The trial court in *Dedmon* agreed. Based on *West*, it limited the plaintiffs' proof on medical expenses to the discounted payments the hospital and doctors had contractually agreed to accept from Mrs. Dedmon's insurance company. The plaintiffs appealed to the Court of Appeals.

The Court of Appeals reversed. It held that *West* does not apply in personal injury cases outside the context of the lien statute. Consequently, even plaintiffs who have insurance can use full, undiscounted medical bills to prove medical expenses. However, it also said that defendants can use discounted insurance payments to prove that the undiscounted bills are not reasonable.

The Tennessee Supreme Court agreed that its holding in *West* was not intended to apply to all personal injury cases. *West* only applies to hospital lien cases.

The defendants nevertheless urged the Court to adopt a new approach. They argued that courts should value medical services the same way as a house or a car, by the "fair market value." The discounted amounts paid by insurance companies are basically the "fair market value" of medical services, they said, so medical expense damages should be limited to the discounted insurance amounts.

The Supreme Court disagreed. It explained that Tennessee has always followed the so-called "collateral source rule," which means that payments and other benefits received by plaintiffs that do not come from the defendant — in other words, benefits that are "collateral" to the defendant — may not be used to reduce the defendant's liability to the plaintiff. The rule also prevents defendants from telling juries about plaintiffs' insurance and other such benefits because it might cause juries to think the plaintiffs have already been paid for their injuries.

The Court observed that, in recent years, health care has become extremely complex. Pricing for medical services is distorted by many things, including deep discounts demanded by insurance companies, laws that require hospitals to treat patients who cannot pay, and benefits like TennCare that pay a set amount for all treatment of a patient. One result has been a widening of the gap between hospitals' standard rates for uninsured patients and the discounted amounts hospitals accept from insurance companies.

The Court looked in depth at different ways other states have handled this issue. Only a few states have either limited plaintiffs' medical expense damages to the discounted insurance amounts or allowed defendants to use the insurance payments to reduce their liability. Both approaches are contrary to the collateral source rule. Both approaches would end up treating plaintiffs with insurance differently from plaintiffs without insurance. Neither approach takes into account benefits other than private insurance, such as TennCare, charity, or gifts. Importantly, the Court said, "it is evident that medical expenses cannot be valued in the same way one would value a house or a car," since "health care services are highly regulated and rates are skewed by countless factors, only one of which is insurance." There is no reason to think the discounted insurance rates are a more accurate way for courts to determine the value of medical services.

The Court acknowledged that the collateral source rule is imperfect. It said that the defendants had "ably pointed out the shortcomings of the collateral source rule in the current health care environment. They are substantial and we do not minimize them." However, the defendants had not pointed "to a better alternative." After its thorough review, the Court declined to alter existing law in Tennessee. It held that the collateral source rule applies in this case. As a result, the plaintiffs may use evidence of Mrs. Dedmon's full, undiscounted medical bills as proof of her reasonable medical expenses. It held that the defendants may not use the discounted rates paid by Mrs. Dedmon's insurance company for any purpose. The defendants are free to use any other evidence to show that the full medical expenses are not reasonable, so long as that evidence does not violate the collateral source rule. (Info from Tennessee Courts website: <https://www.tncourts.gov/courts/supreme-court>)

Membership News and Upcoming Events

- **Defense Wins!** TDLA Member **Sean W. Martin** of the Chattanooga, Tennessee, office of *Carr Allison*, obtained summary judgment in a premises liability case pending in the United States District Court for the Eastern District of Tennessee for one of its hospitality industry clients. The plaintiff and her friend were dining for an early lunch. The restaurant had just opened. After being seated, the plaintiff proceeded to the restroom. Upon returning to her table, the plaintiff allegedly slipped on a drop of water around the bar area. The area had just been inspected by both the bartender and the general manager, who saw no water. There were no other customers in the restaurant and, thus, no reason water would have appeared in the area. EMTs who assisted the plaintiff also confirmed lack of water in the area of the fall. The plaintiff did not appeal.
- **Defense Wins!** TDLA Member **Andrew J. Godbold** of *Leitner, Williams, Dooley & Napolitan* received a ruling from USDC Eastern District dismissing a wholesale distributor from a products liability case. Tennessee law provides immunity to the seller or distributor if the manufacturer is also sued (unless certain exceptions apply). Based on the motion and brief prepared, Judge McDonough granted Judgment on the Pleadings. *Walls, et al v. Ace Hardware, et al.* Case No. 1:17-cv-226
- The **TDLA Young Lawyers section** will be hosting the next TDLA Free Webinar! Young Lawyers Section member attorneys **Kaley Pennington Bell** and **Michael S. Holder** with *Leitner, Williams, Dooley & Napolitan, PLLC* will present November's webinar on **Thursday November 30th at 3pm EST/ 2pm CST**. In this seminar, we will be discussing a recent Middle District of Tennessee case where an alleged sexual assault victim sued three separate fraternity entities—the national fraternity, house corporation and fraternity chapter for negligence and gross negligence. The three fraternity entities filed separate motions for summary judgment that were granted by the U.S. District Court for the Middle District of Tennessee as to all claims. The seminar will provide a broad overview of the arguments used in the fraternity entities' motions for summary judgment, the Plaintiff's response to the motions, and the Court's ruling. Additionally, we will discuss the importance of addressing implied claims, the weaknesses in Plaintiff's drafted responses pointed out by the Court, and highlight effective motion drafting strategies. **To Register, [click here](#)** or visit our website www.tdla.net under "Events". Registrants will receive a webinar link prior to the webinar.

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